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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS INC.,

Debtor.

Case No. 08-1420 (JMP) SIPA

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**LIMITED RESPONSE OF BARCLAYS CAPITAL INC. TO TRUSTEE'S
MOTION FOR AN ORDER GRANTING AUTHORITY TO ISSUE
SUBPOENAS FOR THE PRODUCTION OF DOCUMENTS AND THE
EXAMINATION OF THE DEBTOR'S CURRENT AND FORMER OFFICERS,
DIRECTORS AND EMPLOYEES, AND OTHER PERSONS**

Barclays Capital Inc. ("Barclays") by and through its undersigned counsel, hereby submits this limited response (the "Response") to the Trustee's Motion for an Order Granting Authority to Issue Subpoenas for the Production of Documents and the Examination of the Debtor's Current and Former Officers, Directors and Employees and Other Persons, dated December 11, 2008 (D.I. 417) (the "Motion").¹ In support of its Response, Barclays respectfully states as follows:

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

BASIS FOR RESPONSE

1. While Barclays appreciates the Trustee's obligations under SIPA to conduct an investigation of the Debtor's affairs, Barclays submits this Response in order to ensure that the Trustee's proposed investigation is coordinated with the efforts undertaken by any examiner appointed in the Chapter 11 Cases, so as to avoid duplication of effort and undue burden on Barclays and all other involved parties.

2. In accordance with SIPA, the Trustee's Motion contemplates a broad-ranging investigation into the Debtor's affairs, including *inter alia*, the cause of LBI's demise, the circumstances of the transfer of LBI's subsidiaries to LBHI, and other transfers between LBI and other Lehman entities both before and after the commencement of the Chapter 11 Case. The subjects of this investigation include former officers and employees of the Debtor, as well as counterparties to transactions with LBI. Given the sale of certain of LBI's assets to Barclays, and Barclays' employment of substantial numbers of former LBI employees, Barclays will likely be called upon to aid in such an investigation. Indeed, as the Motion notes, the Trustee's investigation has been undertaken to date as a result of the voluntary, on-going cooperation of Barclays. See Motion, ¶¶ 3, 21.

3. Simultaneously, however, certain parties in the Chapter 11 Cases have moved for the appointment of an examiner pursuant to Section 1104(c) of the Bankruptcy Code.² These motions suggest that an examiner also be appointed to conduct similarly broad-ranging investigations into, *inter alia*, the management and affairs of the Debtor, and the circumstances of intercompany transfers between and among LBHI and its direct and indirect subsidiaries. See Comptroller Motion, ¶¶ 13, 79. Disney Motion, ¶ 14. The Trustee has already noted the

² See Motion of the Walt Disney Company for the Appointment of an Examiner (D.I. 1143 in Case No. 08-13555) (the "Disney Motion"); Motion of New York State Comptroller for Appointment of a Trustee or, in the Alternative, an Examiner with Expanded Powers (D.I. 1376 in Case No. 08-13555) (the "Comptroller Motion").

potential duplication of efforts that could result from an examiner's appointment.³ Should an examiner and the Trustee independently pursue such investigations of LBI and LBHI, each with their anticipated burdens on Barclays' resources and personnel, it will result not only in business disruptions for Barclays, but wasted resources for the Debtors' estates.

4. Barclays thus requests that granting the Trustee's Motion be conditioned on the coordination of the Trustee's planned investigation with any investigation that an examiner may be authorized to undertake in the Chapter 11 Cases.⁴

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth herein, Barclays respectfully requests that this Court: (a) condition the Trustee's Motion on coordination with other investigations that may be authorized in the Chapter 11 Cases; and (b) grant such other and further relief as this Court may deem just or proper.

Dated: New York, New York
January 9, 2009

Respectfully submitted,

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³ See Trustee's Objection to (I) Motion of Walt Disney Company for the Appointment of an Examiner Pursuant to Section 1104(c)(2) of the Bankruptcy Code and (II) Joinder of Bank of America, N.A. in Motion (D.I. 1320 in Case No. 08-1355), ¶ 4 ("The Trustee has already initiated [his] investigation and opposes any examiner or other process that would duplicate or impede the carrying out of [his] statutory duty.").

⁴ For the avoidance of doubt, Barclays reserves its rights to oppose any subpoenas the Trustee may ultimately issue in connection with the Motion or its investigation.